

AMENDED IN ASSEMBLY SEPTEMBER 4, 2015

**SENATE BILL**

**No. 106**

---

**Introduced by Committee on Budget and Fiscal Review**

January 9, 2015

---

~~An act relating to the Budget Act of 2015. An act to add Section 12803.2.5 to the Government Code, and to amend Section 309.5 of, and to add Sections 326.6, 326.7, and 327.5 to, the Public Utilities Code, relating to the Public Utilities Commission, and making an appropriation therefor, to take effect immediately, bill related to the budget.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 106, as amended, Committee on Budget and Fiscal Review.  
~~Budget Act of 2015. Public Utilities Commission.~~

*The California Constitution establishes the Public Utilities Commission with jurisdiction over all public utilities, authorizes the commission to establish its own procedures, subject to statutory limitations or directions and constitutional requirements of due process, and authorizes the commission to fix the rates and establish rules for public utilities, subject to control by the Legislature. The Public Utilities Act establishes an independent Office of Ratepayer Advocates within the Public Utilities Commission, to represent the interests of public utility customers and subscribers, with the goal of obtaining the lowest possible rate for service consistent with reliable and safe service levels. Existing law requires the director of the office to develop a budget for the office that is submitted to the Department of Finance for final approval. Existing law authorizes the director of the office to appoint a lead attorney to represent the office and requires the lead attorney to obtain adequate legal personnel for the work to be conducted by the*

*office from the Public Utilities Commission's attorney and requires the Public Utilities Commission's attorney to timely and appropriately fulfill all requests for legal personnel made by the lead attorney for the office, provided the office has sufficient moneys and positions in its budget for the services requested. Existing law requires the commission to develop appropriate procedures to ensure that the existence of the office does not create a conflict of roles for any employee.*

*This bill would delete the requirement that the lead attorney obtain adequate legal personnel for the work to be conducted by the office from the Public Utilities Commission's attorney and the requirement that the Public Utilities Commission's attorney timely and appropriately fulfill all requests for legal personnel made by the lead attorney for the office. The bill would require the commission to coordinate with the office in developing appropriate procedures to ensure that the existence of the office does not create a conflict of roles for any employee.*

*The California Constitution provides that the Legislature has plenary power, unlimited by the other provisions of the constitution, to confer additional authority and jurisdiction upon the commission that is cognate and germane to the regulation of public utilities. The Public Utilities Act authorizes the commission to supervise and regulate every public utility and to do all things that are necessary and convenient in the exercise of its power and jurisdiction whether specifically designated in the act or in addition thereto.*

*This bill would prohibit the commission from funding any program by a state entity using charges collected from public utility ratepayers unless expressly authorized to do so by statute enacted by the Legislature, including the annual Budget Act.*

*Existing law requires the commission to submit to the Joint Legislative Budget Committee reports on all sources and amount of funding and actual and proposed expenditures for various activities.*

*This bill would require the commission, on a semiannual basis, to provide the Joint Legislative Budget Commission a written notification of any redirection of funds and positions, including loaning staff to other state agencies or departments. The bill would require the California Research Bureau to conduct a review of the organization of the commission to ensure that the commission is the best governmental entity to direct, regulate, and oversee specified public utility sectors.*

*Existing decisions of the commission establish the California Hub for Energy Efficiency Financing, or CHEEF, program, a 2-year pilot program administered by the California Alternative Energy and*

*Advanced Transportation Financing Authority and funded through charges collected by specified electrical corporations and gas corporations from their ratepayers.*

*The bill would require the commission to report to the relevant policy and fiscal committees of the Legislature on the outcomes of the CHEEF program and would prohibit the commission from approving any extension of the program sooner than 30 days after making its report.*

*Existing law establishes the Government Operations Agency consisting of certain state entities, including the Department of Human Resources, which is governed by the Secretary of Government Operations.*

*The bill would require the Secretary of Government Operations to contract with an independent, 3rd-party consulting firm to assess the degree to which each activity and position related to the energy responsibilities of the commission supports the core mission of the commission. The bill would require the secretary, by April 1, 2016, to submit a report to the Legislature on the assessment.*

*The bill would appropriate \$5,000,000 to the commission for the support of the commission.*

*This bill would declare that it is to take effect immediately as a bill providing for appropriations related to the Budget Bill.*

*This bill would express the intent of the Legislature to enact statutory changes relating to the Budget Act of 2015.*

*Vote: majority. Appropriation: ~~no~~-yes. Fiscal committee: ~~no~~ yes. State-mandated local program: no.*

*The people of the State of California do enact as follows:*

- 1     SECTION 1. Section 12803.2.5 is added to the Government
- 2     Code, to read:
- 3     12803.2.5. (a) The Secretary of Government Operations shall
- 4     contract with an independent, third-party consulting firm to assess
- 5     the degree to which each activity and position related to the energy
- 6     responsibilities of the Public Utilities Commission, as identified
- 7     in the commission's zero-based budget conducted pursuant to
- 8     Section 318 of the Public Utilities Code, supports the core mission
- 9     of the commission and to make recommendations as to how
- 10    resources might be better allocated to achieve the core mission
- 11    objectives of the commission.

1 (b) *The contracted consulting firm shall provide to the Joint*  
2 *Legislative Budget Committee and the Department of Finance*  
3 *monthly updates on the progress of the assessment.*

4 (c) (1) *By April 1, 2016, the Secretary of Government*  
5 *Operations shall, pursuant to Section 9795, submit to the*  
6 *Legislature a report on the assessment.*

7 (2) *Pursuant to Section 10231.5, this subdivision is inoperative*  
8 *on April 1, 2020.*

9 (d) *The Public Utilities Commission shall reimburse the*  
10 *Government Operations Agency for the costs incurred pursuant*  
11 *to this section upon request by the agency and appropriation by*  
12 *the Legislature.*

13 SEC. 2. *Section 309.5 of the Public Utilities Code is amended*  
14 *to read:*

15 309.5. (a) *There is within the commission an independent*  
16 *Office of Ratepayer Advocates to represent and advocate on behalf*  
17 *of the interests of public utility customers and subscribers within*  
18 *the jurisdiction of the commission. The goal of the office shall be*  
19 *to obtain the lowest possible rate for service consistent with reliable*  
20 *and safe service levels. For revenue allocation and rate design*  
21 *matters, the office shall primarily consider the interests of*  
22 *residential and small commercial customers.*

23 (b) (1) *The director of the office shall be appointed by, and*  
24 *serve at the pleasure of, the Governor, subject to confirmation by*  
25 *the Senate.*

26 (2) *The director shall annually appear before the appropriate*  
27 *policy committees of the Assembly and the Senate to report on*  
28 *the activities of the office.*

29 (c) *The director shall develop a budget for the office that shall*  
30 *be subject to final approval of the Department of Finance. As*  
31 *authorized in the approved budget, the office shall employ*  
32 *personnel and resources, including attorneys and other legal support*  
33 *staff, at a level sufficient to ensure that customer and subscriber*  
34 *interests are effectively represented in all significant proceedings.*  
35 *The office may employ experts necessary to carry out its functions.*  
36 *The director may appoint a lead attorney who shall represent the*  
37 *office, and shall report to and serve at the pleasure of the director.*  
38 ~~*The lead attorney for the office shall obtain adequate legal*~~  
39 ~~*personnel for the work to be conducted by the office from the*~~  
40 ~~*commission's attorney appointed pursuant to Section 307. The*~~

1 ~~commission's attorney shall timely and appropriately fulfill all~~  
2 ~~requests for legal personnel made by the lead attorney for the~~  
3 ~~office, provided the office has sufficient moneys and positions in~~  
4 ~~its budget for the services requested.~~

5 (d) The commission shall *coordinate with the office* to develop  
6 appropriate procedures to ensure that the existence of the office  
7 does not create a conflict of roles for any employee. The procedures  
8 shall include, but shall not be limited to, the development of a code  
9 of conduct and procedures for ensuring that advocates and their  
10 representatives on a particular case or proceeding are not advising  
11 decisionmakers on the same case or proceeding.

12 (e) The office may compel the production or disclosure of any  
13 information it deems necessary to perform its duties from any  
14 entity regulated by the commission, provided that any objections  
15 to any request for information shall be decided in writing by the  
16 assigned commissioner or by the president of the commission, if  
17 there is no assigned commissioner.

18 (f) There is hereby created the Public Utilities Commission  
19 Ratepayer Advocate Account in the General Fund. Moneys from  
20 the Public Utilities Commission Utilities Reimbursement Account  
21 in the General Fund shall be transferred in the annual Budget Act  
22 to the Public Utilities Commission Ratepayer Advocate Account.  
23 The funds in the Public Utilities Commission Ratepayer Advocate  
24 Account shall be a budgetary program fund administered and  
25 utilized exclusively by the office in the performance of its duties  
26 as determined by the director. The director shall annually submit  
27 a staffing report containing a comparison of the staffing levels for  
28 each five-year period.

29 (g) On or before January 10 of each year, the office shall provide  
30 to the chairperson of the fiscal committee of each house of the  
31 Legislature and to the Joint Legislative Budget Committee all of  
32 the following information:

33 (1) The number of personnel years utilized during the prior year  
34 by the Office of Ratepayer Advocates.

35 (2) The total dollars expended by the Office of Ratepayer  
36 Advocates in the prior year, the estimated total dollars expended  
37 in the current year, and the total dollars proposed for appropriation  
38 in the following budget year.

39 (3) Workload standards and measures for the Office of  
40 Ratepayer Advocates.

(h) The office shall meet and confer in an informal setting with a regulated entity prior to issuing a report or pleading to the commission regarding alleged misconduct, or a violation of a law or a commission rule or order, raised by the office in a complaint. The meet and confer process shall be utilized in good faith to reach agreement on issues raised by the office regarding any regulated entity in the complaint proceeding.

SEC. 3. Section 326.6 is added to the Public Utilities Code, to read:

326.6. The commission shall not fund any program by a state entity using charges collected from ratepayers unless expressly authorized to do so by statute enacted by the Legislature, including the annual Budget Act.

SEC. 4. Section 326.7 is added to the Public Utilities Code, to read:

326.7. The commission, on a semiannual basis, shall provide to the Joint Legislative Budget Committee a written notification of any redirection of funds and positions, including loaning staff to other state agencies or departments.

SEC. 5. Section 327.5 is added to the Public Utilities Code, to read:

327.5. (a) The California Research Bureau shall conduct a review of the organization of the commission to ensure that the commission is the best governmental entity to continue to direct, regulate, and oversee activities under the commission's jurisdiction, including safety enforcement, in energy, communications, transportation, and water sectors, to determine whether other governmental entities are duplicating the activities of the commission, and to determine whether other governmental entities are better situated to regulate and oversee those activities.

(b) In conducting the review, the California Research Bureau, in consultation with appropriate state entities, shall do all of the following:

(1) Make recommendations as to which state or local agencies are best suited to regulate and oversee those activities specified in subdivision (a).

(2) Make recommendations for improving oversight, regulation, and efficiency to best serve California's ratepayers, businesses, and utilities.

1     (3) *Estimate the costs associated with the implementation of its*  
2 *recommendations.*

3     *SEC. 6. The Public Utilities Commission shall report to the*  
4 *relevant policy and fiscal committees of the Legislature on the*  
5 *outcomes of the California Hub for Energy Efficiency Financing,*  
6 *or CHEEF, program. The commission shall not approve any*  
7 *extension of the CHEEF program sooner than 30 days after making*  
8 *its report pursuant to this section.*

9     *SEC. 7. The sum of five million dollars (\$5,000,000) is hereby*  
10 *appropriated from the Public Utilities Commission Utilities*  
11 *Reimbursement Account to the Public Utilities Commission for*  
12 *the support of the commission.*

13     *SEC. 8. This act is a bill providing for appropriations related*  
14 *to the Budget Bill within the meaning of subdivision (e) of Section*  
15 *12 of Article IV of the California Constitution, has been identified*  
16 *as related to the budget in the Budget Bill, and shall take effect*  
17 *immediately.*

18     ~~SECTION 1. It is the intent of the Legislature to enact statutory~~  
19 ~~changes relating to the Budget Act of 2015.~~